

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6661**

**BILL NUMBER:** SB 171

**NOTE PREPARED:** Dec 22, 2005

**BILL AMENDED:**

**SUBJECT:** Operating While Intoxicated and Accident Scenes.

**FIRST AUTHOR:** Sen. Wyss

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Failing to Stop at the Scene of an Accident:* The bill makes failing to stop at the scene of an accident, a Class A misdemeanor, a: (1) Class D felony if the accident involves bodily injury to a person; (2) Class C felony if the accident involves serious bodily injury to a person; and (3) Class B felony if the accident involves the death of a person.

*Operating a Motor Vehicle or Motorboat:* The bill makes it a Class D felony for a person to operate a motor vehicle or motorboat while intoxicated and cause bodily injury to another person. It makes operating a motor vehicle or motorboat while intoxicated and causing serious bodily injury to another person a Class C felony instead of a Class D felony. The bill also makes operating a motor vehicle or motorboat while intoxicated and causing the death of another person a Class B felony instead of a Class C felony.

*Suspension of Driving Privileges:* The bill requires a court to recommend the suspension of a person's driving privileges for five years if the person is convicted of operating a motor vehicle or motorboat while intoxicated and causing serious bodily injury to or the death of another person. It requires the Bureau of Motor Vehicles and a court to suspend the driving privileges of a person for two years if the person: (1) refuses to submit to a chemical test; and (2) has been convicted of or entered a plea of guilty or *nolo contendere* to the offense of public intoxication, operating a vehicle recklessly, or operating a motor vehicle or motorboat while intoxicated.

*Bodily Substance Samples:* The bill allows certified phlebotomists to obtain bodily substance samples for purposes of implied consent laws.

*Conforming Amendments:* The bill makes conforming amendments.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** *Failing to Stop at the Scene of an Accident and Operating a Motor Vehicle or Motorboat:* State expenditure would increase if an offender is incarcerated in a state correctional facility instead of a local jail or if the offender is incarcerated for a longer period of time. The bill could result in an offender being sent to a state facility instead of a local jail or could increase the length of incarceration by increasing the penalty for failing to stop at the scene of an accident as follows.

Result of the Accident	Current Law	Proposed Penalty
Bodily Injury	Class A misdemeanor*	Class D felony
Serious Bodily Injury	Class D felony	Class C felony
Death	Class C felony	Class B felony
*Current statute does not specifically address bodily injury. Under current law, the offense is a Class A misdemeanor unless serious bodily injury or death occur.		

The bill also establishes felony offenses and increases the penalty for certain offenses if injury is caused while operating a motor vehicle and while intoxicated, as shown below.

Result of Operating a Motor Vehicle while intoxicated	Current Law	Proposed Penalty
Bodily Injury	-----	Class D felony (or Class C felony with a prior conviction)
Serious Bodily Injury	Class D felony (or Class C felony with a prior conviction)	Class C felony (or Class B felony with a prior conviction)
Death	Class C felony (or Class B felony with a prior conviction and in certain other conditions)	Class B felony

The criminal penalty for operating a motor boat while intoxicated and causing injury is also increased, as seen below.

<b>Result of Operating a Motor Boat while intoxicated</b>	<b>Current Law</b>	<b>Proposed Penalty</b>
Bodily Injury	Class C misdemeanor or Class D felony with prior conviction*	Class D felony
Serious Bodily Injury	Class D felony	Class C felony
Death	Class C felony	Class B felony
*Current statute does not specifically address bodily injury. Under current law, the offense is a Class C misdemeanor unless there is a prior conviction, or serious bodily injury or death occur.		

*Background on Criminal Penalties:* Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor; a Class C felony is punishable by a prison term ranging from 2 to 8 years; and a Class B felony is punishable by a prison term ranging from 6 to 20 years.

The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292.

The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months; for all Class C felony offenders is approximately 2 years; and for all Class B felony offenders is approximately 3.7 years.

Between 2001 and 2005, there were 8 offenders a year, on average, committed to state correctional facilities for Class D felony failing to stop at an accident, and in 2005 there were 5 offenders committed for Class C felony failing to stop at the scene of an accident.

On average between 2001 and 2005, there were 30 offenders a year committed to a state correctional facility for Class D felony operating a vehicle while intoxicated and causing serious bodily injury, and 13 offenders a year committed for the Class C felony offense.

Also in this same time period, on average, there were 31 offenders a year committed for Class C felony operating a vehicle while intoxicated and causing death and 7 offenders a year committed for the Class B felony offense. There are no admissions data available on operating a motorboat while intoxicated.

*Suspension of Driving Privileges:* No change in the administrative cost for suspending driving privileges would likely occur as the result of increasing the term of suspension of driving privileges under certain circumstances.

*Bodily Substance Samples:* Under current law, a person must be transported to a hospital or other medical facility to obtain a sample, and only certain trained individuals may collect samples at other medical facilities. Under the bill, transportation to a hospital or other medical facility would not be required, and certified phlebotomists (which may include law enforcement officers) would be added to the list of people allowed to collect samples. If law enforcement avoids transporting a person for bodily substance sampling, the bill would

reduce costs. However, to the extent that the person would need medical attention in a hospital or medical facility or would be released from custody, there may be no reduction in costs associated with these changes.

**Explanation of State Revenues:** No change would likely occur in state revenue as a result of increasing felony penalties since criminal fines and court fees are the same for all felony crime classes. However, more revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000 and for a Class C misdemeanor is \$500, while the maximum fine for a Class D, C, or B felony is \$10,000.

**Explanation of Local Expenditures:** If an offender is sentenced to state prison for a felony rather than to a county jail for a misdemeanor, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year and for a Class C misdemeanor is up to 60 days. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

**Explanation of Local Revenues:** Court fees for both misdemeanors and felonies are \$120.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction, Indiana State Police.

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